

# SENATE MOTION

**MR. PRESIDENT:**

**I move** that Senate Bill 74 be amended to read as follows:

- 1       Page 3, delete lines 12 through 20, begin a new paragraph and
- 2       insert:
- 3       "Sec. 9. (a) A person who violates this chapter commits a
- 4       deceptive act that is actionable by an interactive computer service
- 5       or the recipient of the commercial electronic mail.
- 6       (b) If the plaintiff prevails in an action filed under this section,
- 7       the plaintiff is entitled to the following:
- 8           (1) An injunction to enjoin future violations of this chapter.
- 9           (2) Compensatory damages equal to any actual damage
- 10          proven by the plaintiff to have resulted from the initiation of
- 11          the commercial electronic mail message. If the plaintiff does
- 12          not prove actual damage in excess of five hundred dollars
- 13          (\$500) for each commercially deceptive electronic mail
- 14          message, then the plaintiff is entitled to presumptive damages
- 15          of five hundred dollars (\$500) for each deceptive commercial
- 16          electronic mail message that violates this chapter and that is
- 17          sent by the defendant:
- 18           (A) to the plaintiff; or
- 19           (B) through the plaintiff's interactive computer service.

- 1       **(3) The plaintiff's reasonable attorney's fee and other costs**
- 2       **reasonably incurred in connection with the action."**

(Reference is to SB 74 as printed February 5, 2003.)

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Senator FORD